

Central Valley Regional Water Quality Control Board

18 February 2016

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RESPONSE TO THE KERN RIVER WATERSHED COALITION AUTHORITY SEDIMENT DISCHARGE AND EROSION ASSESSMENT REPORT CONDITIONAL APPROVAL

Thank you for your 8 February 2016 submittal responding to the conditional approval of the Kern River Watershed Coalition Authority's (Coalition) Sediment Discharge and Erosion Assessment Report (SDEAR). My staff have reviewed the submittal and determined that it expresses an incorrect understating of how the *Water Quality Control Plan for the Tulare Lake Basin, Second Edition* (Basin Plan) regards the beneficial uses of ephemeral waterways, and does not adequately address the proximity to surface water issue raised in my conditional approval letter. Statements and ideas similar to those contained in the submittal have been expressed by other coalitions in the Tulare Lake Basin Area and require a clear explanation of the Central Valley Water Board's position. The statements in question are summarized below:

- Due to the limited flow durations of ephemeral waterways, no useable aquatic habitat is available in any of the minor streams within the Coalition.
- Proximity to surface water has been adequately accounted for as a risk factor in the Coalition's analysis.

The goal of the SDEAR, as specified in Waste Discharge Requirements General Order R5-2013-0120 (Order), is to determine which irrigated lands within the Coalition are subject to erosion and may discharge sediment that may degrade surface waters. Surface waters of the state are defined in Section 13050(e) of the California Water Code, which includes any surface water or groundwater, including saline waters, within the boundaries of the state. Surface waters are further defined in Attachment E of the Order, which states in part,

"Surface waters include, but are not limited to, natural streams, lakes, wetlands, creeks, constructed agricultural drains, agricultural dominated waterways, irrigation and flood control channels, or other non-stream tributaries. Surface waters include all waters of the United States and their tributaries, interstate waters and their tributaries, intrastate waters, and all impoundments of these waters."

The beneficial uses of ephemeral streams within the Coalition are identified in the Basin Plan, and include, Agricultural Supply (AGR), Industrial Service Supply (IND), Industrial Process Supply (PRO), Hydropower Generation (POW), Water Contact Recreation (REC-1), Non-Contact Water Recreation (REC-2), Warm Freshwater Habitat (WARM), Wildlife Habitat (WILD), Rare, Threatened, or Endangered Species (RARE), and Ground Water Recharge (GWR). Other East Side Streams have the additional beneficial uses of Municipal and Domestic Supply (MUN) and Cold Freshwater Habitat (COLD). These beneficial uses must be protected during

18 February 2016

both dry periods and times of flow, even if not directly observed by the Coalition. Should evidence suggest to the Coalition that a particular listed beneficial use no longer pertains to a specific waterway, the Coalition may request to remove the beneficial use designation via the Basin Plan amendment process.

In addition, the 8 February 2016 submittal expressed the Coalition's opinion that proximity to surface waters has been adequately addressed as a risk factor in the SDEAR. The Revised Universal Soil Loss Equation (RUSLE) utilized in the SDEAR assessment is a mathematical model developed to estimate the rates of rill and inter-rill erosion caused by rainfall and corresponding overland flow. It does not address proximity to surface waters as a contributing factor to sediment discharge and erosion potential, and does not account for methods of sediment transport other than rainfall (e.g., applied irrigation water). Operations that have the potential to directly discharge or runoff to surface water have an increased potential to discharge sediment due to their proximity. These operations need to develop sediment and erosion control plans unless the farm cannot discharge to the waterway (e.g., leveed waterway, etc.).

My conditional approval of the Coalition's SDEAR requires the submittal of a revised SDEAR that expands the assessment to include all surface waters meeting the definition in the Order and a work plan and time schedule to address proximity to surface waters as a risk factor that increases the potential for discharge of sediment that may degrade surface water. These items were not addressed in the 8 February 2016 submittal and remain outstanding.

If you have any questions regarding this letter or the requirements of the conditional approval, please contact Eric Warren at (559) 445-5035 or eric.warren@waterboards.ca.gov.

Original signed by Pamela C. Creedon

Pamela C. Creedon
Executive Officer

cc: Sue McConnell, Supervising Water Resource Control Engineer, Rancho Cordova